

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

WEDNESDAY, THE 20TH DECEMBER 2006 / 29TH AGRAHAYANA 1928

CRP.No. 2486 of 1998(A)

AGAINST THE ORDER DATED 06/10/1998 IN IA 308/96 IN
AS.180/1995 of SUB COURT, NEYYATTINKARA
OS.357/1993 of .M.C., NEYYATTINKARA
.....

REVN. PETITIONER/PETITIONER/APPELLANT/1ST DEFENDANT:

KRISHNANKUTTY, S/O. RAGHAVA PANICKER,
RESIDING AT RAGHAVE MANDIRAM, KARAKKONAM,
KUNNATHUKAL.

BY ADV. SRI. N. N. SUGUNAPALAN (SR.)

RESPONDENTS/CR. PETITIONERS/RESPONDENTS/PLAINTIFF & DEFENDANTS 2 TO 8:

1. CHELLAPPAN GOPALAKRISHNAN, RESIDING AT SANGEETH SADANAM,
KARAKKONAM, KUNNATHUKAL DESOM, KUNNATHUKAL VILLAGE.

2. SUKUMARAN, S/O. RAGHAVA PANICKER, RESIDING AT CHEMMANKALA
PUTHEN VEEDU, KARAKKONAM, KUNNATHUKAL.

3. BALAKRISHNAN, S/O. RAGHAVA PANICKER, RESIDING AT
ROADARIKATHU VEEDU, RAMAVARMANCHIRA P.O.,
TAMIL NADU.

4. NADESAN, S/O. RAGHAVA PANICKER, RESIDING AT LAILA BHAVAN,
ARATTUKUZHAY P.O., VELLARADA.

5. SATHYABHAMA, D/O. AMBUJAKSHI, RESIDING AT ROADARIKATHU
PUTHEN VEEDU, UTHARAMKODU, KOTTOOR P.O., KATTAKKADA,
THIRUVANANTHAPURAM.

6. VASANTHI, D/O. AMBUJAKSHI, DO. DO.

7. SARASWATHY, D/O. AMBUJAKSHI, RESIDING AT ROADARIKATHU PUTHEN
VEEDU, ARAMATHEKALLU, NEAR SHEEJA OIL MILL, THOLLUKKUZH.

8. SYAMALA, D/O. AMBUJAKSHI, RESIDING AT SANGEETHA SADANAM,
KARAKKONAM, KUNNATHUKAL.

BY ADV. SRI. PIRAPPANCODE V. S. SUDHIR FOR R1

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD
ON 20/12/2006, THE COURT ON THE SAME DAY PASSED THE
FOLLOWING:

J.B.KOSHY, J.

C.R.P.NO.2486 OF 1998 (A)

Dated this the 20th day of December, 2006

O R D E R

Petitioner was the appellant in A.S.No.180/1995 on the file of Sub court, Neyyattinkara. The above appeal was filed against the suit in O.S.No.357/1993 on the file of the Munsiff's Court, Neyyattinkara. Petitioner was the 1st defendant in the suit. The above suit was decreed on 25.1.1995. Thereafter A.S.No.180/1995 was filed by the petitioner against the decree. The above appeal was dismissed for default on 30.1.1996 due to non appearance of the appellant and the counsel. A restoration application was filed as I.A.No.308/1996. Reasons stated for non appearance of the petitioner was that the advocate's clerk did not notice the date of posting correctly. A counter affidavit was filed in the I.A. stating that the above submission itself is not correct and the appellant was deliberately absenting to prolong the matter. Despite the counter affidavit, no evidence was adduced by examining the advocate's clerk or anyother material to show that he had

sufficient reasons for non appearance before the court on that day. Therefore in the impugned order appellate court found that petitioner or his counsel was not able to explain circumstances for his non appearance on the posting date. Hence the restoration application was dismissed. Considering the facts and circumstances of the case, I am of the view that court below has considered the contentions of the petitioner in a detailed manner and held that there is no basis for restoration of the case. Hence the C.R.P. is dismissed.

J.B.KOSHY, JUDGE

prp

J.B.KOSHY

C.R.P.2486 OF 1998(A)

O R D E R

20th December, 2006